

655—20.33 (17A,272C) Stays of agency actions.

20.33(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy. The petition must be filed within 30 days of the issuance of the final order, or if a party filed a request for rehearing that was denied, the petition must be filed within 30 days after the request for rehearing was denied or deemed denied.

20.33(2) *When granted.* The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay. In determining whether to grant a stay, the presiding officer shall consider the following factors:

a. The extent to which the applicant is likely to prevail when the board or court finally disposes of the matter;

b. The extent to which the applicant will suffer irreparable injury if relief is not granted;

c. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings;

d. The extent to which the public interest relied on by the board is sufficient to justify the board's action in the circumstances.

20.33(3) *Exhaustion required.* A party must petition the board for a stay pursuant to this rule prior to requesting a stay from the district court in a judicial review proceeding.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]